IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3992 OF 2007

Rehna Bano Ahmed Shafique ... Petitioner
VS.
The Returning Officer, /Election Officer
Malegaon Municipal Corpn. & ors. . . ... Respondents

Mr. A. A. Khan for petitioner.
Mr. S. M. Sabrad for respondent nos. 1 and 2.
V. Mhaispurkar AGP for respondent no. 3

CORAM: **D.G. KARNIK &**
A.A. SAYED JJ.
(Vacation Court.)
DATE: May , 18 , 2007

P.C.:

1. Heard learned counsel for the parties. Mr. S. M. Sabrad undertakes to file appearance on behalf of respondent nos. 1 and 2. Undertaking is recorded and accepted.
2. This writ petition is directed against the order dated 11th May 2007 passed by the Election Officer No. 2 rejecting the nomination papers of the petitioner. The nomination paper was rejected on the ground that the petitioner has not signed the necessary affidavit before the Election Officer. It is not disputed that as per the rules such affidavit is required to be filed. In view thereof we see no error in the order of the Election Officer rejecting the nomination paper. Even otherwise we are not inclined to entertain this petition as it is against an order rejecting the nomination paper. In N. P.

Ponnuswami vs. The returning Officer, reported in A.I.R. (39) 1952 S.C. 64 a Constitution Bench of the Supreme Court has observed in para 27 as follows:

> "We are informed that besides the Madras High Court, seven other State High Courts have held that they have no jurisdiction under Art.226 of the Constitution to entertain petitions regarding improper rejection of nomination papers. This view is in my opinion correct and must be affirmed. The appeal must, therefore, fail and is dismissed".

3. In our opinion proper remedy for the petitioner against the rejection of his nomination paper is in accordance with provisions of section 16 of the Bombay Provincial Municipal Corporation Act. We are therefore decline to exercise the writ jurisdiction. Writ petition is accordingly dismissed.

(D.G. KARNIK J.)

(A.A. SAYED J.)